IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO NO. 1035 OF 1988
DATE OF DECISION: 9.8.2006

SMT. SUNIL BATISH AND OTHERS

....APPELLANTS

VERSUS

SHRI SUKHDEV SINGH AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

PRESENT: MR. M.B. SINGH, ADVOCATE
FOR THE APPELLANTS

MR. INDERJIT SHARMA, ADVOCATE
FOR RESPONDENT NO. 3.

JUDGEMENT

This order will dispose of FAO Nos. 1035 and 1156 of 1988. However, the facts are being taken from FAO No. 1035 of 1988.

The present appeal is filed by the claimants against the award dated 28.7.1988, passed by the Motor Accident Claims Tribunal, Chandigarh in MACT case No. 22 of 1987, for enhancement of compensation.

The claim petition arose out of an accident which occurred on 21.11.1986 at about 8.15 A.M., in which Shri Naresh Kumar Batish died. The deceased was going on scooter bearing No. CHG 5630 from Sector 7 towards PGI, Chandigarh. He was a pillion rider on the scooter. The accident was as a result of rash and negligent driving of a vehicle bearing No. CHW 2073, which came from behind and struck the scooter, as a result of which Naresh Kumar Batish died. Deceased was employed as Works Inspector in PGI, Chandigarh and was 36 years of age at the time of his death. The claimants were widow and two children of the deceased. Separate claim petition was filed by the mother of the deceased. The Tribunal, inspite of having the salary certificate of the deceased on record showing that the deceased was drawing a salary of Rs. 1460/- per month in the month of October 1986, still assessed his dependency at Rs 800/- per

month and by applying a multiplier of 18, the compensation of Rs. 1,72,800/- was awarded. In my view, while assessing the compensation, the Tribunal has totally lost sight of the fact about the future prospects of the deceased, who was in permanent employment with PGI as Works Inspector. Guidance for assessing compensation by taking into consideration future prospects in life is available vide judgment of Hon'ble the Supreme Court in *Kerala State Road Transport Corporation vs. Susamma Thomas and others* 1994(2) P.L.R. 1 (SC) and *Smt. Sarla Dixit vs. Balwant Yadav* 1996 (2) P.L.R. 656 (SC).

In Kerala State Road Transport Corporation's case (Supra) Hon'ble the Supreme Court while considering the issue on future prospects in life and estimation of income in that light observed as under:

> *"13. .....The deceased person in this case had a more or less stable job. It will not be inappropriate to take a reasonably liberal view of the prospects of the future and in estimating the gross income it will be unreasonable to estimate the loss of dependency on the present actual income of Rs. 1,032/- per month. We think, having regard to the prospects of advancement in the future career, respecting which there is evidence on record, we will not be in error in making a higher estimate of monthly income at Rs. 2,000/- as the gross income. From this has to be deducted his personal living expenses, the quantum of which again depends on various factors such as whether the style of living was Spartan or Bohemian. In the absence of evidence it is not unusual to deduct one-third of the gross income towards the personal living expenses and treat the balance as the amount likely to have been spent on the members of the family and the dependents. This loss of dependency should capitalize with the*

> *appropriate multiplier. In the present case we can take about Rs. 1,400/- per month or Rs. 17,000/- per year as the loss of dependency and if capitalized on a multiplier of 12, which is appropriate to the age of the deceased, the compensation would work out to (Rs. 17,000/- x 12 = Rs. 2,04,000/-) to which is added the usual award for loss of consortium and loss of the estate each in the conventional sum of Rs. 15,000/-"*

Considering the principles of determination of compensation as laid down in the above referred judgments and keeping in view future prospects of the deceased, in my opinion, it would be just and reasonable to assess the dependency of the deceased at Rs. 1500/- per month and applying a multiplier of 15, keeping in view the age of deceased, the amount of compensation comes out to Rs. 2,70,000/-. To this, a sum of Rs. 2,000/- is added as funeral expenses and another Rs. 10,000/- on account of loss of consortium and estate, making a total of Rs. 2,82,000/- . The additional amount of compensation shall be payable to the claimants alongwith interest @ 7.5 % per annum from the date of application till its payment.

The widow and children of the deceased raised the plea before the Tribunal that the mother of the deceased should not be treated as dependent upon the deceased as she was living with other son. However, this plea, was rejected by the Tribunal and the Tribunal awarded a sum of Rs. 22,800/- to the mother. The order passed by the Tribunal is challenged before this Court by the widow and the children reiterating the plea that the mother was not dependent upon the deceased I do not find any merit in this contention raised by the appellants. Accordingly, I dismiss their appeal being FAO No. 1156 of 1988 and hold that the mother, even if she was living with other son, cannot be excluded from being the claimants having suffered on account of death of her son.

Additional amount of compensation, shall be payable to the claimants in the following manner: (i) mother of the deceased Rs. 15,000/- alongwith interest thereon ; (ii) widow wife of the deceased Rs. 48,200/-

alongwith interest thereon and (iii) two children of the deceased Rs. 23,000/- each alongwith interest thereon.

The award of the Tribunal is modified in the manner indicated above, and the appeal being FAO No. 1035 of 1988 is disposed of accordingly.

August 9, 2006 **(RAJESH BINDAL)**
gsv **JUDGE**